

SENATE BILL 1236

By Bunch

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 6, relative to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 4. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following as new subdivisions to be appropriately numbered:

() "Adult bookstore" means a business that offers, as its principal or predominate stock or trade, sexually oriented material, devices, or paraphernalia, whether determined by the total number of sexually oriented materials, devices or paraphernalia offered for sale, by the percent of its total sales or its profits, by the retail value of such materials, devices or paraphernalia, specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live, or that in part or in whole restricts or purports to restrict admission to adults or to any class of adults. The definition specifically includes items sexually oriented in nature, regardless of how labeled or sold, such as adult novelties, risqué gifts or marital aids;

() "Adult materials" means those materials whose display to minors is limited by § 39-17-914;

() "Escort" means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort;

() "Service-oriented escort" is an escort that:

(A) Operates from an open office;

(B) Does not employ or use an escort runner;

(C) Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau that so advertises; and

(D) Does not offer or provide sexual conduct;

() “Sexually-oriented escort” is an escort that:

(A) Employs as an employee, agent, or independent contractor an escort bureau runner;

(B) Works for, as an agent, employee, contractor, or is referred to a patron by a sexually-oriented escort bureau;

(C) Advertises that sexual conduct will be provided, or works for, as an employee, agent or independent contractor or is referred to a patron by an escort bureau that so advertises;

(D) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort bureau;

(E) Works as an escort without having a current valid permit issued under this part in such person's possession at all times while working as an escort; or

(F) Accepts a fee from a patron who has not first been delivered a contract;

() “Escort service” means a “person” as defined in this section, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts;

() “Service-oriented escort bureau” is an escort bureau that:

(A) Maintains an open office at an established place of business;

(B) Does not use an escort bureau runner; and

(C) Does not advertise that sexual conduct will be provided to a patron;

() "Sexually-oriented escort bureau" is an escort bureau that:

(i) Does not maintain an open office;

(ii) Employs as an employee, agent, or independent contractor an escort bureau runner;

(iii) Advertises that sexual conduct will be provided, or that escorts that provide such sexual conduct will be provided, referred, or introduced to a patron;

(iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron;

(v) Employs, contracts with or provides or refers escorts who do not possess valid permits issued under this part;

(vi) Does not deliver contracts to every patron or customer; or

(vii) Employs or contracts with a sexually-oriented escort, or refers or provides to a patron, a sexually-oriented escort;

() "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:

(A) Genitals;

(B) The pubic region; or

(C) A female breast below a point immediately above the top of the areola;

() "Sexually explicit business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually explicit business or an independent contractor, performs any service:

(A) Personally on the premises of the sexually explicit business; and

(B) During at least thirty (30) consecutive or nonconsecutive days within

a calendar year for:

(i) A salary;

(ii) A fee;

(iii) A commission;

(iv) Hire;

(v) Profit; or

(vi) Any other compensation.

SECTION 2. Tennessee Code Annotated, Section 67-6-212, is amended by adding the following new subsection thereto:

(e) In addition to any other applicable tax, there is levied on the sale of advertising in periodicals printed entirely on newsprint or bond paper and distributed at least twenty-five (25) times annually a tax of twenty-five percent (25%) for sexually oriented material, devices, or paraphernalia, including adult novelties, risqué gifts or marital aids, escort services, service-oriented escort bureaus, or sexually oriented escort bureaus, sexually explicit businesses and other such adult materials and services that are limited to persons over the age of eighteen (18). Alcoholic beverages regulated in title 57 and tobacco products shall not be subject to the provisions of this subsection (e).

SECTION 3. Nothing in this act shall apply to any contraceptive device or to any medication that is prescribed by a physician and that is intended to enhance sexual performance or sexual enjoyment.

SECTION 4. The commissioner of revenue is authorized to promulgate rules and regulations pursuant to title 4, chapter 5, to implement the provisions of this act.

SECTION 5. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect at 12:05 a.m. on July 1, 2009, the public welfare requiring it.